HON'BLE MR JUSTICE A. GOPAL REDDY

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WRIT PETITION NO.20919 OF 1994

DATE:21.02.2006

Between:

Ch. Linga Rao

..... PETITIONER

AND

The Joint Collector, Nizamabad and two others.

.....RESPONDENTS

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HON'BLE MR JUSTICE A. GOPAL REDDY

W.P. No.20919 OF 1994

ORDER:

This Writ Petition is filed seeking a Writ of Mandamus declaring the action of the third respondent in attaching the sugar cane crop of the petitioner standing in Sy.Nos.147/A and 147/E, situate in Siddapoor village within Bodhan Mandal, dated 27.8.1994, as illegal and void, and to restrain the respondents from proceedings in any manner in pursuance of the distraint proceedings dated 27.8.1994 issued by the third respondent not only in respect of the petitioner sugar cane crop but also in respect of the lands covered under the above survey numbers.

The petitioner stood as a surety for release of the confiscated essential commodities pending the proceedings under Section 6-A of the Essential Commodities Act initiated against M/s. Gopal Traders, Lakmapoor, Bodhan Mandal. On conclusion of the said proceedings, the said M/s. Gopal Traders was made liable to pay Rs.50,000/- and on its failure to pay the same, the respondents tried to attach the two houses belonging to the mother and other family members of the petitioner. Questioning the said action, the mother of the petitioner and others filed W.P.No.12504 of 1994 in which, they were granted stay subject to their depositing Rs.15,000/-, and in the appeal filed by them, the same was modified to that of furnishing security for a sum of Rs.15,000/- to the satisfaction of third respondent. While so, the third respondent issued the impugned notice under Section 9 of the A.P. Revenue Recovery Act, attaching the sugar cane crop of the petitioner for recovery of the amount due by M/s. Gopal Traders, on whose behalf, the petitioner

stood as guarantor.

From the material available on record, it is to be seen that as against the impugned order, the petitioner filed a suit in O.S.No.100 of 1994 before the District Munsif, Bodhan seeking declaration that he is not liable to be proceeded under the A.P. Revenue Recovery Act. In the said suit, the petitioner filed I.A.No.382 of 1994 seeking interim injunction, but the same was dismissed on 17.10.1994. Therefore, the petitioner invoked the Writ jurisdiction of this Court.

Time and again, this Court observed that when a civil suit is pending, over the very same subject-matter this Court shall not exercise the writ jurisdiction. The Apex Court in **Bombay Metropolitan Region Development Authority, Bombay v. Golak Patel Volkart Ltd.** ((1995) 1 SCC 642) held that pending civil suit, a writ for the same *lis* cannot be maintainable. Further, the learned counsel for the petitioner is not in a position to say the result of the suit filed by the petitioner. Hence, if the petitioner is aggrieved by dismissal of the interim application filed in the suit, the proper remedy for him is to carry the matter in appeal before the appropriate forum, but cannot invoke the writ jurisdiction of this Court under Article 227 of Constitution of India.

With the above observation, the writ petition is dismissed. No costs.

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A. GOPAL REDDY, J

21st FEBRUARY, 2006.

Tsr